

A.G. Contract No.: KR04-1396TRN
ADOT ECS File: JPA 04-009
Section: Lyman Lake State Park Road
Reconstruction/Repair
TRACS NO.: H616401C
BUDGET SOURCE ITEM NO.: 12304

INTERAGENCY AGREEMENT

BETWEEN
THE STATE OF ARIZONA
DEPARTMENT OF TRANSPORTATION
AND
ARIZONA STATE PARKS BOARD

THIS AGREEMENT is entered into this date February 7, 2005, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "ADOT") and the ARIZONA STATE PARKS BOARD acting by and through its Executive Director (the "Board").

I. RECITALS

1. ADOT is empowered by Arizona Revised Statutes Sections 28-401 and 28-6993 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The Board is empowered by Arizona Revised Statutes Section 41-511 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Board.

3. ADOT and the Board desire to participate in reconstructing and repairing approximately 3.5 miles of existing roads within Lyman Lake State Park (the "Park") and constructing a new, paved road approximately 250 feet in length within the Park. The reconstructing and repairing of the Park's roads will include new drainage culverts, and asphalt and gravel-surfaced roads hereinafter referred to as the "Project" as shown on Exhibit "A", attached hereto and made a part hereof, at an estimated cost of \$1,150,000.00. ADOT has agreed to design, construct and administer the contract.

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

NO. 27363
Filed with the Secretary of State
Date Filed: 02/07/05

Janice K. Brewer
Secretary of State

By: Darryl D. Schenewald

II. SCOPE OF WORK

1. ADOT Will:

a. Prepare and provide plans, specifications and other such documents and services required for construction bidding and construction of the Project and submit same to the Board for concurrence. Incorporate or resolve the Board's review comments. Upon concurrence of the plans by the Board, the Project will be constructed by ADOT.

b. Agree to be the authorized agent for the Board.

c. At no time be considered the owner of, operator of, or locator for the Board's facilities.

d. Call for bids and award one or more construction contract(s) for the Project, administer it and make all payments to the contractor(s). Be responsible for any contractor claims for extra compensation due to delays or whatever reason attributable to ADOT.

e. Be responsible for the cost of the Project estimated at \$1,150,000.00.

f. Not be obligated to maintain this Project, should the Board fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

2. The Board Will:

a. Review the design documents and provide comments to ADOT.

b. Upon execution of this agreement, does hereby designate the State as authorized agent for the Board. Be responsible for any design consultant and contractor claims for extra compensation due to delays or whatever reason attributable to the Arizona State Parks Board or the Park.

c. Upon completion and acceptance of the Project by ADOT, be responsible for the sole operation and maintenance of the Project.

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall remain in force and effect until completion of the Project; provided, however, that any provisions in this Agreement for maintenance shall be perpetual, unless assumed by another governmental entity. It is understood and agreed that ADOT's participation is to design, construct, and administer the Project. The Board shall provide any provisions for operation and maintenance of the Project *within* the right-of-way of the Park. ADOT will not be obligated to maintain said Project should the Board fail to budget or to provide for the proper and perpetual maintenance as set forth in this Agreement. This Agreement may be canceled at any time prior to the award of the Project construction contract, upon thirty (30) days written notice to either party. It is understood and agreed that in the event the Board terminates this Agreement, ADOT shall in no way be obligated to maintain said Project upon such termination.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this Agreement.

5. In the event of any controversy that may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. Non-Discrimination. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds: Every payment obligation of ADOT or the Board under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by ADOT or the Board at the end of the period for which the funds are available. No liability shall accrue to ADOT or the Board in the event this provision is exercised, and ADOT or the Board shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17th Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX: (602) 712-7424

Arizona State Parks Board
Development Contract Manager
1300 West Washington Street
Phoenix, AZ 85007

9. In accordance with Arizona Revised Statutes Section 11-952(D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

ARIZONA STATE PARKS BOARD

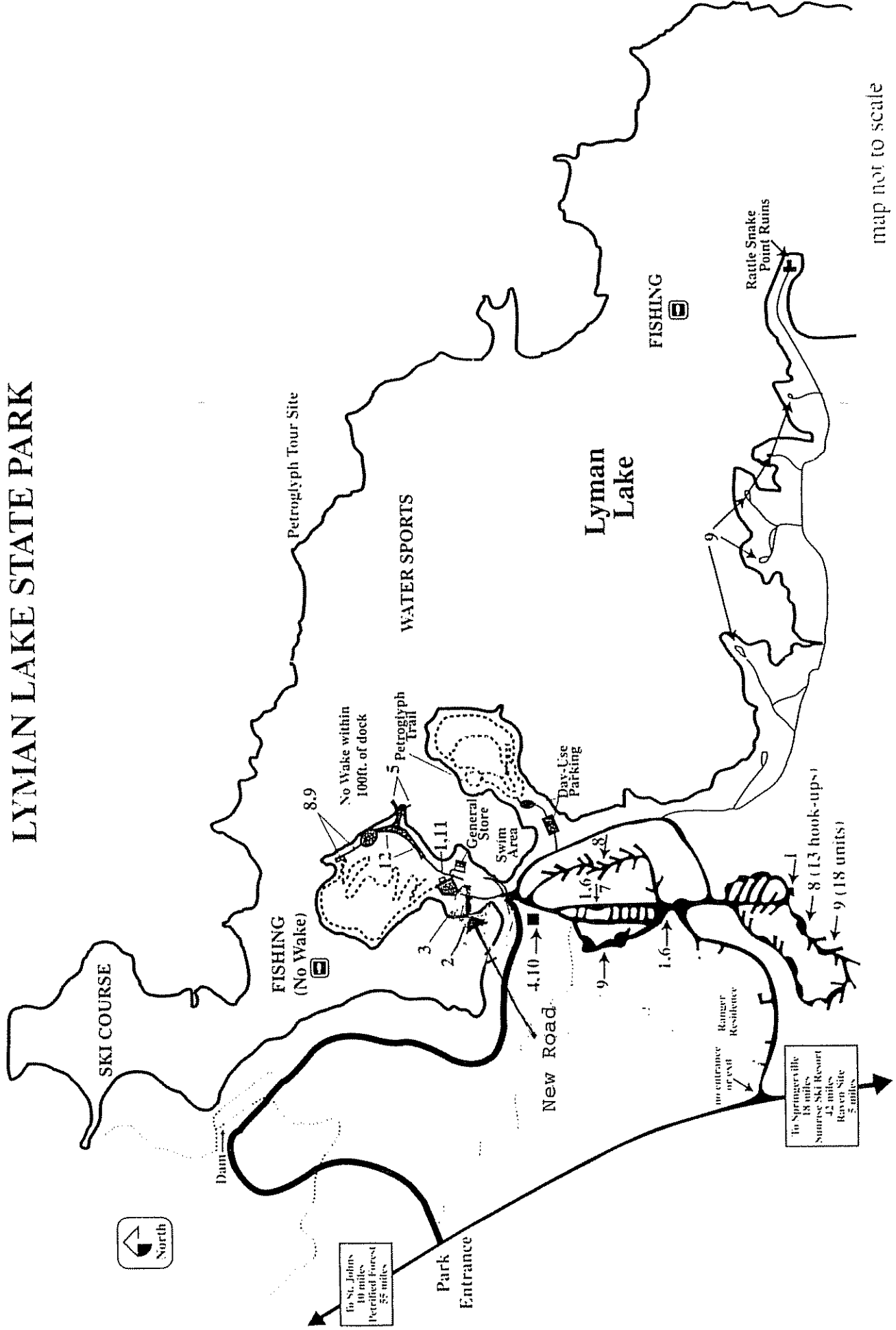
**STATE OF ARIZONA
DEPARTMENT OF TRANSPORTATION**

By 
KEN TRAVOUS
Executive Director

By 
SAM MAROUFKHANI, P.E.
Deputy State Engineer

LYMAN LAKE STATE PARK

JPA 04-009



map not to scale

APPROVAL AS TO FORM

RE: Attorney General Contract No.:

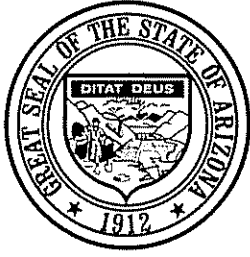
Pursuant to your request, the Attorney General's Office has reviewed the above referenced contract and approved it as to form. When reviewing this contract for form, the Attorney General's Office considers whether the following situations have been addressed:

1. Identification of parties;
2. Offer and acceptance;
3. Existence of contract consideration (we do not review to determine if consideration is adequate); and
4. That certain provisions specifically required by statute are included (provisions concerning Non-Availability of funds; Audit of Records, A.R.S. § 35-214; Conflict of Interest, A.R.S. § 38-511; Non-discrimination, Executive Order 99-4; Third Party Antitrust Violations; and others).

Although we will notify you if we observe other issues or problems with a contract, we have not reviewed the contract for other issues. Therefore, approval as to form should not be considered as approval of the appropriateness of the terms or conditions of the contract or the underlying transaction. In addition, approval of the form should not be considered approval of the underlying policy considerations addressed by the contract.

DATED this 22nd day of November, 2004.

By Jal Hhode
Assistant Attorney General



**ATTORNEY GENERAL
CIVIL DIVISION
TRANSPORTATION SECTION**

MEMORANDUM

Jeffrey T. Murray
Assistant Attorney General

Direct: (602) 542-8859
Fax: (602) 542-3646


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-1396TRN (**JPA 04-009**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED February 1st, 2005.

TERRY GODDARD
Attorney General


JEFFREY T. MURRAY
Assistant Attorney General
Transportation Section

JTM:dgr
Attachment
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